



OFFICE OF THE ATTORNEY GENERAL OF TEXAS
AUSTIN

GERALD C. MANN
ATTORNEY GENERAL

Hon. Bert Ford, Administrator
Texas Liquor Control Board
Austin, Texas

Dear Sir:

Opinion No. 0-2001

Re: (1) Brook Hollow Golf Club as a bona fide hotel within meaning of Section 23 (5), Article 1, Texas Liquor Control Act.
(2) Dallas Country Club as a hotel within the meaning of Section 23 (5), Article 1, Texas Liquor Control Act.

In your letter of February 23, 1940, you set out the following fact situations:

"The Brook Hollow Golf Club, a corporation, has applied for both a wine and beer permit and a package store permit with the Texas Liquor Control Board. Section 17 (1), Article 1 of the Texas Liquor Control Act reads as follows:

"It shall be unlawful for any person holding a package store permit, or owning an interest in a package store, to have any interest, either directly or indirectly, in a Wine and Beer Retailer's Permit, or Beer Retailer's License, or the business thereof."

"Section 23 (5), Article 1, Texas Liquor Control Act, reads as follows:

"It is further provided that any bona fide hotel shall be authorized to hold a Package Store Permit as well as a Wine and Beer Retailer's Permit and a Beer Retailer's License provided such businesses are completely and wholly segregated from each other. The Board is authorized to adopt rules and regulations to enforce this provision. It is further provided

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that a hotel holding a Package Store Permit may deliver liquor at retail in unbroken packages to the rooms of bona fide guests of such hotel for consumption in such rooms.'

"According to investigation by one of our representatives, the Brook Hollow Golf Club in its main building located on the premises wherein it maintains a golf course, has a building at which they maintain and serve regular meals to the members and guests, in much the same manner as any other cafe, restaurant, or coffee shop. In that building they have three rooms furnished with beds, which are available for visiting members from in town and out of town, for which it charges members \$2.00 per night, which rooms, according to information received from the manager of the Brook Hollow Golf Club, were not occupied during the month of January. The Club maintains one maid who cares for the rooms, five porters employed on the premises, four cooks, and serves meals until 9 o'clock P.M. each day."

You desire to be informed whether the Brook Hollow Golf Club constitutes a bona fide hotel within the meaning of Section 23 (5), Article 1, Texas Liquor Control Act.

A hotel is defined as a house providing lodging and usually meals for the public, (Webster's New International Dictionary, 2nd Ed.), a place for the general entertainment of all travelers and strangers who apply, paying suitable compensation (Comer v. State, 26 Tex. App. 509, 10 S.W. 106), and a place for the entertainment of all persons who may have occasion to patronize it (Kieser v. Keough, 188 S.W. 44; Debenham v. Short et al, 199 S.W. 1147; 32 Corpus Juris p. 527).

One of the distinguishing characteristics of a hotel is that it holds itself out as willing to provide accommodations to all those of the public who choose to visit it, upon payment, of course, of suitable compensation. 32 Corpus Juris 531, North v. Franklin, 20 Tex. 798.

Section 23 (5), Article 1, Texas Liquor Control Act, does not apply, in our opinion, to the Brook Hollow Golf Club. The exemption therein contained is conferred upon "any bona fide

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hotel." The Brook Hollow Golf Club is lacking in the distinguishing characteristic of the hotel mentioned above, in that it does not hold itself out as willing to provide accommodation to all those of the public who choose to visit it. The accommodations of the club are not conducted or made available for the convenience of the traveling public, but are only "available for visiting members from in town and out of town."

You ask the same question in reference to the Dallas Country Club. The facts in regard to the Dallas Country Club, you state, are that the club maintains in a building located upon its premises approximately twenty-six guest rooms, which are available to members and their guests, a few of which are occupied as permanent residences by members of the club, the others being rented out by the night to members of the club who are in town for only a few days; that the club also operates a restaurant and grill service.

So far as appears from the facts stated in your letter, the situation of the Dallas Country Club is not materially different from that of the Brook Hollow Golf Club. You are therefore advised that our opinion as to the status of the Dallas Country Club as a "bona fide hotel" is the same as that expressed with reference to the status of the Brook Hollow Golf Club, immediately above.

Trusting that this is the desired information, we are

Yours very truly

ATTORNEY GENERAL OF TEXAS

By

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APPROVED MAR 20, 1940

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